



Sen. John J. Cullerton

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1 AMENDMENT TO HOUSE BILL 2891

2 AMENDMENT NO. _____. Amend House Bill 2891, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Workers' Compensation Act is amended by
6 changing Sections 8 and 19 as follows:

7 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

8 Sec. 8. The amount of compensation which shall be paid to
9 the employee for an accidental injury not resulting in death
10 is:

11 (a) The employer shall provide and pay the negotiated rate,
12 if applicable, or the lesser of the health care provider's
13 actual charges or according to a fee schedule, subject to
14 Section 8.2, in effect at the time the service was rendered for
15 all the necessary first aid, medical and surgical services, and
16 all necessary medical, surgical and hospital services

1 thereafter incurred, limited, however, to that which is
2 reasonably required to cure or relieve from the effects of the
3 accidental injury, even if a health care provider sells,
4 transfers, or otherwise assigns an account receivable for
5 procedures, treatments, or services covered under this Act. If
6 the employer does not dispute payment of first aid, medical,
7 surgical, and hospital services, the employer shall make such
8 payment to the provider on behalf of the employee. The employer
9 shall also pay for treatment, instruction and training
10 necessary for the physical, mental and vocational
11 rehabilitation of the employee, including all maintenance
12 costs and expenses incidental thereto. If as a result of the
13 injury the employee is unable to be self-sufficient the
14 employer shall further pay for such maintenance or
15 institutional care as shall be required.

16 The employee may at any time elect to secure his own
17 physician, surgeon and hospital services at the employer's
18 expense, or,

19 Upon agreement between the employer and the employees, or
20 the employees' exclusive representative, and subject to the
21 approval of the Illinois Workers' Compensation Commission, the
22 employer shall maintain a list of physicians, to be known as a
23 Panel of Physicians, who are accessible to the employees. The
24 employer shall post this list in a place or places easily
25 accessible to his employees. The employee shall have the right
26 to make an alternative choice of physician from such Panel if

1 he is not satisfied with the physician first selected. If, due
2 to the nature of the injury or its occurrence away from the
3 employer's place of business, the employee is unable to make a
4 selection from the Panel, the selection process from the Panel
5 shall not apply. The physician selected from the Panel may
6 arrange for any consultation, referral or other specialized
7 medical services outside the Panel at the employer's expense.
8 Provided that, in the event the Commission shall find that a
9 doctor selected by the employee is rendering improper or
10 inadequate care, the Commission may order the employee to
11 select another doctor certified or qualified in the medical
12 field for which treatment is required. If the employee refuses
13 to make such change the Commission may relieve the employer of
14 his obligation to pay the doctor's charges from the date of
15 refusal to the date of compliance.

16 Any vocational rehabilitation counselors who provide
17 service under this Act shall have appropriate certifications
18 which designate the counselor as qualified to render opinions
19 relating to vocational rehabilitation. Vocational
20 rehabilitation may include, but is not limited to, counseling
21 for job searches, supervising a job search program, and
22 vocational retraining including education at an accredited
23 learning institution. The employee or employer may petition to
24 the Commission to decide disputes relating to vocational
25 rehabilitation and the Commission shall resolve any such
26 dispute, including payment of the vocational rehabilitation

1 program by the employer.

2 The maintenance benefit shall not be less than the
3 temporary total disability rate determined for the employee. In
4 addition, maintenance shall include costs and expenses
5 incidental to the vocational rehabilitation program.

6 When the employee is working light duty on a part-time
7 basis or full-time basis and earns less than he or she would be
8 earning if employed in the full capacity of the job or jobs,
9 then the employee shall be entitled to temporary partial
10 disability benefits. Temporary partial disability benefits
11 shall be equal to two-thirds of the difference between the
12 average amount that the employee would be able to earn in the
13 full performance of his or her duties in the occupation in
14 which he or she was engaged at the time of accident and the
15 gross amount which he or she is earning in the modified job
16 provided to the employee by the employer or in any other job
17 that the employee is working.

18 Every hospital, physician, surgeon or other person
19 rendering treatment or services in accordance with the
20 provisions of this Section shall upon written request furnish
21 full and complete reports thereof to, and permit their records
22 to be copied by, the employer, the employee or his dependents,
23 as the case may be, or any other party to any proceeding for
24 compensation before the Commission, or their attorneys.

25 Notwithstanding the foregoing, the employer's liability to
26 pay for such medical services selected by the employee shall be

1 limited to:

2 (1) all first aid and emergency treatment; plus

3 (2) all medical, surgical and hospital services
4 provided by the physician, surgeon or hospital initially
5 chosen by the employee or by any other physician,
6 consultant, expert, institution or other provider of
7 services recommended by said initial service provider or
8 any subsequent provider of medical services in the chain of
9 referrals from said initial service provider; plus

10 (3) all medical, surgical and hospital services
11 provided by any second physician, surgeon or hospital
12 subsequently chosen by the employee or by any other
13 physician, consultant, expert, institution or other
14 provider of services recommended by said second service
15 provider or any subsequent provider of medical services in
16 the chain of referrals from said second service provider.
17 Thereafter the employer shall select and pay for all
18 necessary medical, surgical and hospital treatment and the
19 employee may not select a provider of medical services at
20 the employer's expense unless the employer agrees to such
21 selection. At any time the employee may obtain any medical
22 treatment he desires at his own expense. This paragraph
23 shall not affect the duty to pay for rehabilitation
24 referred to above.

25 (4) The following shall apply for injuries occurring on
26 or after June 28, 2011 (the effective date of Public Act

1 97-18) ~~this amendatory Act of the 97th General Assembly~~ and
2 only when an employer has an approved preferred provider
3 program pursuant to Section 8.1a on the date the employee
4 sustained his or her accidental injuries:

5 (A) The employer shall, in writing, on a form
6 promulgated by the Commission, inform the employee of
7 the preferred provider program;

8 (B) Subsequent to the report of an injury by an
9 employee, the employee may choose in writing at any
10 time to decline the preferred provider program, in
11 which case that would constitute one of the two choices
12 of medical providers to which the employee is entitled
13 under subsection (a) (2) or (a) (3); and

14 (C) Prior to the report of an injury by an
15 employee, when an employee chooses non-emergency
16 treatment from a provider not within the preferred
17 provider program, that would constitute the employee's
18 one choice of medical providers to which the employee
19 is entitled under subsection (a) (2) or (a) (3).

20 When an employer and employee so agree in writing, nothing
21 in this Act prevents an employee whose injury or disability has
22 been established under this Act, from relying in good faith, on
23 treatment by prayer or spiritual means alone, in accordance
24 with the tenets and practice of a recognized church or
25 religious denomination, by a duly accredited practitioner
26 thereof, and having nursing services appropriate therewith,

1 without suffering loss or diminution of the compensation
2 benefits under this Act. However, the employee shall submit to
3 all physical examinations required by this Act. The cost of
4 such treatment and nursing care shall be paid by the employee
5 unless the employer agrees to make such payment.

6 Where the accidental injury results in the amputation of an
7 arm, hand, leg or foot, or the enucleation of an eye, or the
8 loss of any of the natural teeth, the employer shall furnish an
9 artificial of any such members lost or damaged in accidental
10 injury arising out of and in the course of employment, and
11 shall also furnish the necessary braces in all proper and
12 necessary cases. In cases of the loss of a member or members by
13 amputation, the employer shall, whenever necessary, maintain
14 in good repair, refit or replace the artificial limbs during
15 the lifetime of the employee. Where the accidental injury
16 accompanied by physical injury results in damage to a denture,
17 eye glasses or contact eye lenses, or where the accidental
18 injury results in damage to an artificial member, the employer
19 shall replace or repair such denture, glasses, lenses, or
20 artificial member.

21 The furnishing by the employer of any such services or
22 appliances is not an admission of liability on the part of the
23 employer to pay compensation.

24 The furnishing of any such services or appliances or the
25 servicing thereof by the employer is not the payment of
26 compensation.

1 (b) If the period of temporary total incapacity for work
2 lasts more than 3 working days, weekly compensation as
3 hereinafter provided shall be paid beginning on the 4th day of
4 such temporary total incapacity and continuing as long as the
5 total temporary incapacity lasts. In cases where the temporary
6 total incapacity for work continues for a period of 14 days or
7 more from the day of the accident compensation shall commence
8 on the day after the accident.

9 1. The compensation rate for temporary total
10 incapacity under this paragraph (b) of this Section shall
11 be equal to 66 2/3% of the employee's average weekly wage
12 computed in accordance with Section 10, provided that it
13 shall be not less than 66 2/3% of the sum of the Federal
14 minimum wage under the Fair Labor Standards Act, or the
15 Illinois minimum wage under the Minimum Wage Law, whichever
16 is more, multiplied by 40 hours. This percentage rate shall
17 be increased by 10% for each spouse and child, not to
18 exceed 100% of the total minimum wage calculation,
19 nor exceed the employee's average weekly wage computed in
20 accordance with the provisions of Section 10, whichever is
21 less.

22 2. The compensation rate in all cases other than for
23 temporary total disability under this paragraph (b), and
24 other than for serious and permanent disfigurement under
25 paragraph (c) and other than for permanent partial
26 disability under subparagraph (2) of paragraph (d) or under

1 paragraph (e), of this Section shall be equal to 66 2/3% of
2 the employee's average weekly wage computed in accordance
3 with the provisions of Section 10, provided that it shall
4 be not less than 66 2/3% of the sum of the Federal minimum
5 wage under the Fair Labor Standards Act, or the Illinois
6 minimum wage under the Minimum Wage Law, whichever is more,
7 multiplied by 40 hours. This percentage rate shall be
8 increased by 10% for each spouse and child, not to exceed
9 100% of the total minimum wage calculation,
10 nor exceed the employee's average weekly wage computed in
11 accordance with the provisions of Section 10, whichever is
12 less.

13 2.1. The compensation rate in all cases of serious and
14 permanent disfigurement under paragraph (c) and of
15 permanent partial disability under subparagraph (2) of
16 paragraph (d) or under paragraph (e) of this Section shall
17 be equal to 60% of the employee's average weekly wage
18 computed in accordance with the provisions of Section 10,
19 provided that it shall be not less than 66 2/3% of the sum
20 of the Federal minimum wage under the Fair Labor Standards
21 Act, or the Illinois minimum wage under the Minimum Wage
22 Law, whichever is more, multiplied by 40 hours. This
23 percentage rate shall be increased by 10% for each spouse
24 and child, not to exceed 100% of the total minimum wage
25 calculation,
26 nor exceed the employee's average weekly wage computed in

1 accordance with the provisions of Section 10, whichever is
2 less.

3 3. As used in this Section the term "child" means a
4 child of the employee including any child legally adopted
5 before the accident or whom at the time of the accident the
6 employee was under legal obligation to support or to whom
7 the employee stood in loco parentis, and who at the time of
8 the accident was under 18 years of age and not emancipated.
9 The term "children" means the plural of "child".

10 4. All weekly compensation rates provided under
11 subparagraphs 1, 2 and 2.1 of this paragraph (b) of this
12 Section shall be subject to the following limitations:

13 The maximum weekly compensation rate from July 1, 1975,
14 except as hereinafter provided, shall be 100% of the
15 State's average weekly wage in covered industries under the
16 Unemployment Insurance Act, that being the wage that most
17 closely approximates the State's average weekly wage.

18 The maximum weekly compensation rate, for the period
19 July 1, 1984, through June 30, 1987, except as hereinafter
20 provided, shall be \$293.61. Effective July 1, 1987 and on
21 July 1 of each year thereafter the maximum weekly
22 compensation rate, except as hereinafter provided, shall
23 be determined as follows: if during the preceding 12 month
24 period there shall have been an increase in the State's
25 average weekly wage in covered industries under the
26 Unemployment Insurance Act, the weekly compensation rate

1 shall be proportionately increased by the same percentage
2 as the percentage of increase in the State's average weekly
3 wage in covered industries under the Unemployment
4 Insurance Act during such period.

5 The maximum weekly compensation rate, for the period
6 January 1, 1981 through December 31, 1983, except as
7 hereinafter provided, shall be 100% of the State's average
8 weekly wage in covered industries under the Unemployment
9 Insurance Act in effect on January 1, 1981. Effective
10 January 1, 1984 and on January 1, of each year thereafter
11 the maximum weekly compensation rate, except as
12 hereinafter provided, shall be determined as follows: if
13 during the preceding 12 month period there shall have been
14 an increase in the State's average weekly wage in covered
15 industries under the Unemployment Insurance Act, the
16 weekly compensation rate shall be proportionately
17 increased by the same percentage as the percentage of
18 increase in the State's average weekly wage in covered
19 industries under the Unemployment Insurance Act during
20 such period.

21 From July 1, 1977 and thereafter such maximum weekly
22 compensation rate in death cases under Section 7, and
23 permanent total disability cases under paragraph (f) or
24 subparagraph 18 of paragraph (3) of this Section and for
25 temporary total disability under paragraph (b) of this
26 Section and for amputation of a member or enucleation of an

1 eye under paragraph (e) of this Section shall be increased
2 to 133-1/3% of the State's average weekly wage in covered
3 industries under the Unemployment Insurance Act.

4 For injuries occurring on or after February 1, 2006,
5 the maximum weekly benefit under paragraph (d)1 of this
6 Section shall be 100% of the State's average weekly wage in
7 covered industries under the Unemployment Insurance Act.

8 4.1. Any provision herein to the contrary
9 notwithstanding, the weekly compensation rate for
10 compensation payments under subparagraph 18 of paragraph
11 (e) of this Section and under paragraph (f) of this Section
12 and under paragraph (a) of Section 7 and for amputation of
13 a member or enucleation of an eye under paragraph (e) of
14 this Section, shall in no event be less than 50% of the
15 State's average weekly wage in covered industries under the
16 Unemployment Insurance Act.

17 4.2. Any provision to the contrary notwithstanding,
18 the total compensation payable under Section 7 shall not
19 exceed the greater of \$500,000 or 25 years.

20 5. For the purpose of this Section this State's average
21 weekly wage in covered industries under the Unemployment
22 Insurance Act on July 1, 1975 is hereby fixed at \$228.16
23 per week and the computation of compensation rates shall be
24 based on the aforesaid average weekly wage until modified
25 as hereinafter provided.

26 6. The Department of Employment Security of the State

1 shall on or before the first day of December, 1977, and on
2 or before the first day of June, 1978, and on the first day
3 of each December and June of each year thereafter, publish
4 the State's average weekly wage in covered industries under
5 the Unemployment Insurance Act and the Illinois Workers'
6 Compensation Commission shall on the 15th day of January,
7 1978 and on the 15th day of July, 1978 and on the 15th day
8 of each January and July of each year thereafter, post and
9 publish the State's average weekly wage in covered
10 industries under the Unemployment Insurance Act as last
11 determined and published by the Department of Employment
12 Security. The amount when so posted and published shall be
13 conclusive and shall be applicable as the basis of
14 computation of compensation rates until the next posting
15 and publication as aforesaid.

16 7. The payment of compensation by an employer or his
17 insurance carrier to an injured employee shall not
18 constitute an admission of the employer's liability to pay
19 compensation.

20 (c) For any serious and permanent disfigurement to the
21 hand, head, face, neck, arm, leg below the knee or the chest
22 above the axillary line, the employee is entitled to
23 compensation for such disfigurement, the amount determined by
24 agreement at any time or by arbitration under this Act, at a
25 hearing not less than 6 months after the date of the accidental
26 injury, which amount shall not exceed 150 weeks (if the

1 accidental injury occurs on or after the effective date of this
2 amendatory Act of the 94th General Assembly but before February
3 1, 2006) or 162 weeks (if the accidental injury occurs on or
4 after February 1, 2006) at the applicable rate provided in
5 subparagraph 2.1 of paragraph (b) of this Section.

6 No compensation is payable under this paragraph where
7 compensation is payable under paragraphs (d), (e) or (f) of
8 this Section.

9 A duly appointed member of a fire department in a city, the
10 population of which exceeds 500,000 according to the last
11 federal or State census, is eligible for compensation under
12 this paragraph only where such serious and permanent
13 disfigurement results from burns.

14 (d) 1. If, after the accidental injury has been sustained,
15 the employee as a result thereof becomes partially
16 incapacitated from pursuing his usual and customary line of
17 employment, he shall, except in cases compensated under the
18 specific schedule set forth in paragraph (e) of this Section,
19 receive compensation for the duration of his disability,
20 subject to the limitations as to maximum amounts fixed in
21 paragraph (b) of this Section, equal to 66-2/3% of the
22 difference between the average amount which he would be able to
23 earn in the full performance of his duties in the occupation in
24 which he was engaged at the time of the accident and the
25 average amount which he is earning or is able to earn in some
26 suitable employment or business after the accident. For

1 accidental injuries that occur on or after September 1, 2011,
2 an award for wage differential under this subsection shall be
3 effective only until the employee reaches the age of 67 or 5
4 years from the date the award becomes final, whichever is
5 later.

6 2. If, as a result of the accident, the employee sustains
7 serious and permanent injuries not covered by paragraphs (c)
8 and (e) of this Section or having sustained injuries covered by
9 the aforesaid paragraphs (c) and (e), he shall have sustained
10 in addition thereto other injuries which injuries do not
11 incapacitate him from pursuing the duties of his employment but
12 which would disable him from pursuing other suitable
13 occupations, or which have otherwise resulted in physical
14 impairment; or if such injuries partially incapacitate him from
15 pursuing the duties of his usual and customary line of
16 employment but do not result in an impairment of earning
17 capacity, or having resulted in an impairment of earning
18 capacity, the employee elects to waive his right to recover
19 under the foregoing subparagraph 1 of paragraph (d) of this
20 Section then in any of the foregoing events, he shall receive
21 in addition to compensation for temporary total disability
22 under paragraph (b) of this Section, compensation at the rate
23 provided in subparagraph 2.1 of paragraph (b) of this Section
24 for that percentage of 500 weeks that the partial disability
25 resulting from the injuries covered by this paragraph bears to
26 total disability. If the employee shall have sustained a

1 fracture of one or more vertebra or fracture of the skull, the
2 amount of compensation allowed under this Section shall be not
3 less than 6 weeks for a fractured skull and 6 weeks for each
4 fractured vertebra, and in the event the employee shall have
5 sustained a fracture of any of the following facial bones:
6 nasal, lachrymal, vomer, zygoma, maxilla, palatine or
7 mandible, the amount of compensation allowed under this Section
8 shall be not less than 2 weeks for each such fractured bone,
9 and for a fracture of each transverse process not less than 3
10 weeks. In the event such injuries shall result in the loss of a
11 kidney, spleen or lung, the amount of compensation allowed
12 under this Section shall be not less than 10 weeks for each
13 such organ. Compensation awarded under this subparagraph 2
14 shall not take into consideration injuries covered under
15 paragraphs (c) and (e) of this Section and the compensation
16 provided in this paragraph shall not affect the employee's
17 right to compensation payable under paragraphs (b), (c) and (e)
18 of this Section for the disabilities therein covered.

19 (e) For accidental injuries in the following schedule, the
20 employee shall receive compensation for the period of temporary
21 total incapacity for work resulting from such accidental
22 injury, under subparagraph 1 of paragraph (b) of this Section,
23 and shall receive in addition thereto compensation for a
24 further period for the specific loss herein mentioned, but
25 shall not receive any compensation under any other provisions
26 of this Act. The following listed amounts apply to either the

1 loss of or the permanent and complete loss of use of the member
2 specified, such compensation for the length of time as follows:

3 1. Thumb-

4 70 weeks if the accidental injury occurs on or
5 after the effective date of this amendatory Act of the
6 94th General Assembly but before February 1, 2006.

7 76 weeks if the accidental injury occurs on or
8 after February 1, 2006.

9 2. First, or index finger-

10 40 weeks if the accidental injury occurs on or
11 after the effective date of this amendatory Act of the
12 94th General Assembly but before February 1, 2006.

13 43 weeks if the accidental injury occurs on or
14 after February 1, 2006.

15 3. Second, or middle finger-

16 35 weeks if the accidental injury occurs on or
17 after the effective date of this amendatory Act of the
18 94th General Assembly but before February 1, 2006.

19 38 weeks if the accidental injury occurs on or
20 after February 1, 2006.

21 4. Third, or ring finger-

22 25 weeks if the accidental injury occurs on or
23 after the effective date of this amendatory Act of the
24 94th General Assembly but before February 1, 2006.

25 27 weeks if the accidental injury occurs on or
26 after February 1, 2006.

1 5. Fourth, or little finger-

2 20 weeks if the accidental injury occurs on or
3 after the effective date of this amendatory Act of the
4 94th General Assembly but before February 1, 2006.

5 22 weeks if the accidental injury occurs on or
6 after February 1, 2006.

7 6. Great toe-

8 35 weeks if the accidental injury occurs on or
9 after the effective date of this amendatory Act of the
10 94th General Assembly but before February 1, 2006.

11 38 weeks if the accidental injury occurs on or
12 after February 1, 2006.

13 7. Each toe other than great toe-

14 12 weeks if the accidental injury occurs on or
15 after the effective date of this amendatory Act of the
16 94th General Assembly but before February 1, 2006.

17 13 weeks if the accidental injury occurs on or
18 after February 1, 2006.

19 8. The loss of the first or distal phalanx of the thumb
20 or of any finger or toe shall be considered to be equal to
21 the loss of one-half of such thumb, finger or toe and the
22 compensation payable shall be one-half of the amount above
23 specified. The loss of more than one phalanx shall be
24 considered as the loss of the entire thumb, finger or toe.
25 In no case shall the amount received for more than one
26 finger exceed the amount provided in this schedule for the

1 loss of a hand.

2 9. Hand-

3 190 weeks if the accidental injury occurs on or
4 after the effective date of this amendatory Act of the
5 94th General Assembly but before February 1, 2006.

6 205 weeks if the accidental injury occurs on or
7 after February 1, 2006.

8 190 weeks if the accidental injury occurs on or
9 after June 28, 2011 (the effective date of Public Act
10 97-18) ~~this amendatory Act of the 97th General Assembly~~
11 and if the accidental injury involves carpal tunnel
12 syndrome due to repetitive or cumulative trauma, in
13 which case the permanent partial disability shall not
14 exceed 15% loss of use of the hand, except for cause
15 shown by clear and convincing evidence and in which
16 case the award shall not exceed 30% loss of use of the
17 hand.

18 The loss of 2 or more digits, or one or more phalanges
19 of 2 or more digits, of a hand may be compensated on the
20 basis of partial loss of use of a hand, provided, further,
21 that the loss of 4 digits, or the loss of use of 4 digits,
22 in the same hand shall constitute the complete loss of a
23 hand.

24 10. Arm-

25 235 weeks if the accidental injury occurs on or
26 after the effective date of this amendatory Act of the

1 94th General Assembly but before February 1, 2006.

2 253 weeks if the accidental injury occurs on or
3 after February 1, 2006.

4 Where an accidental injury results in the amputation of
5 an arm below the elbow, such injury shall be compensated as
6 a loss of an arm. Where an accidental injury results in the
7 amputation of an arm above the elbow, compensation for an
8 additional 15 weeks (if the accidental injury occurs on or
9 after the effective date of this amendatory Act of the 94th
10 General Assembly but before February 1, 2006) or an
11 additional 17 weeks (if the accidental injury occurs on or
12 after February 1, 2006) shall be paid, except where the
13 accidental injury results in the amputation of an arm at
14 the shoulder joint, or so close to shoulder joint that an
15 artificial arm cannot be used, or results in the
16 disarticulation of an arm at the shoulder joint, in which
17 case compensation for an additional 65 weeks (if the
18 accidental injury occurs on or after the effective date of
19 this amendatory Act of the 94th General Assembly but before
20 February 1, 2006) or an additional 70 weeks (if the
21 accidental injury occurs on or after February 1, 2006)
22 shall be paid. For purposes of awards under this
23 subdivision (e), injuries to the shoulder shall be
24 considered to be injuries to part of the arm.

25 11. Foot-

26 155 weeks if the accidental injury occurs on or

1 after the effective date of this amendatory Act of the
2 94th General Assembly but before February 1, 2006.

3 167 weeks if the accidental injury occurs on or
4 after February 1, 2006.

5 12. Leg-

6 200 weeks if the accidental injury occurs on or
7 after the effective date of this amendatory Act of the
8 94th General Assembly but before February 1, 2006.

9 215 weeks if the accidental injury occurs on or
10 after February 1, 2006.

11 Where an accidental injury results in the amputation of
12 a leg below the knee, such injury shall be compensated as
13 loss of a leg. Where an accidental injury results in the
14 amputation of a leg above the knee, compensation for an
15 additional 25 weeks (if the accidental injury occurs on or
16 after the effective date of this amendatory Act of the 94th
17 General Assembly but before February 1, 2006) or an
18 additional 27 weeks (if the accidental injury occurs on or
19 after February 1, 2006) shall be paid, except where the
20 accidental injury results in the amputation of a leg at the
21 hip joint, or so close to the hip joint that an artificial
22 leg cannot be used, or results in the disarticulation of a
23 leg at the hip joint, in which case compensation for an
24 additional 75 weeks (if the accidental injury occurs on or
25 after the effective date of this amendatory Act of the 94th
26 General Assembly but before February 1, 2006) or an

1 additional 81 weeks (if the accidental injury occurs on or
2 after February 1, 2006) shall be paid.

3 13. Eye-

4 150 weeks if the accidental injury occurs on or
5 after the effective date of this amendatory Act of the
6 94th General Assembly but before February 1, 2006.

7 162 weeks if the accidental injury occurs on or
8 after February 1, 2006.

9 Where an accidental injury results in the enucleation
10 of an eye, compensation for an additional 10 weeks (if the
11 accidental injury occurs on or after the effective date of
12 this amendatory Act of the 94th General Assembly but before
13 February 1, 2006) or an additional 11 weeks (if the
14 accidental injury occurs on or after February 1, 2006)
15 shall be paid.

16 14. Loss of hearing of one ear-

17 50 weeks if the accidental injury occurs on or
18 after the effective date of this amendatory Act of the
19 94th General Assembly but before February 1, 2006.

20 54 weeks if the accidental injury occurs on or
21 after February 1, 2006.

22 Total and permanent loss of hearing of both ears-

23 200 weeks if the accidental injury occurs on or
24 after the effective date of this amendatory Act of the
25 94th General Assembly but before February 1, 2006.

26 215 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 15. Testicle-

3 50 weeks if the accidental injury occurs on or
4 after the effective date of this amendatory Act of the
5 94th General Assembly but before February 1, 2006.

6 54 weeks if the accidental injury occurs on or
7 after February 1, 2006.

8 Both testicles-

9 150 weeks if the accidental injury occurs on or
10 after the effective date of this amendatory Act of the
11 94th General Assembly but before February 1, 2006.

12 162 weeks if the accidental injury occurs on or
13 after February 1, 2006.

14 16. For the permanent partial loss of use of a member
15 or sight of an eye, or hearing of an ear, compensation
16 during that proportion of the number of weeks in the
17 foregoing schedule provided for the loss of such member or
18 sight of an eye, or hearing of an ear, which the partial
19 loss of use thereof bears to the total loss of use of such
20 member, or sight of eye, or hearing of an ear.

21 (a) Loss of hearing for compensation purposes
22 shall be confined to the frequencies of 1,000, 2,000
23 and 3,000 cycles per second. Loss of hearing ability
24 for frequency tones above 3,000 cycles per second are
25 not to be considered as constituting disability for
26 hearing.

1 (b) The percent of hearing loss, for purposes of
2 the determination of compensation claims for
3 occupational deafness, shall be calculated as the
4 average in decibels for the thresholds of hearing for
5 the frequencies of 1,000, 2,000 and 3,000 cycles per
6 second. Pure tone air conduction audiometric
7 instruments, approved by nationally recognized
8 authorities in this field, shall be used for measuring
9 hearing loss. If the losses of hearing average 30
10 decibels or less in the 3 frequencies, such losses of
11 hearing shall not then constitute any compensable
12 hearing disability. If the losses of hearing average 85
13 decibels or more in the 3 frequencies, then the same
14 shall constitute and be total or 100% compensable
15 hearing loss.

16 (c) In measuring hearing impairment, the lowest
17 measured losses in each of the 3 frequencies shall be
18 added together and divided by 3 to determine the
19 average decibel loss. For every decibel of loss
20 exceeding 30 decibels an allowance of 1.82% shall be
21 made up to the maximum of 100% which is reached at 85
22 decibels.

23 (d) If a hearing loss is established to have
24 existed on July 1, 1975 by audiometric testing the
25 employer shall not be liable for the previous loss so
26 established nor shall he be liable for any loss for

1 which compensation has been paid or awarded.

2 (e) No consideration shall be given to the question
3 of whether or not the ability of an employee to
4 understand speech is improved by the use of a hearing
5 aid.

6 (f) No claim for loss of hearing due to industrial
7 noise shall be brought against an employer or allowed
8 unless the employee has been exposed for a period of
9 time sufficient to cause permanent impairment to noise
10 levels in excess of the following:

11	Sound Level DBA	
12	Slow Response	Hours Per Day
13	90	8
14	92	6
15	95	4
16	97	3
17	100	2
18	102	1-1/2
19	105	1
20	110	1/2
21	115	1/4

22 This subparagraph (f) shall not be applied in cases of
23 hearing loss resulting from trauma or explosion.

24 17. In computing the compensation to be paid to any
25 employee who, before the accident for which he claims
26 compensation, had before that time sustained an injury

1 resulting in the loss by amputation or partial loss by
2 amputation of any member, including hand, arm, thumb or
3 fingers, leg, foot or any toes, such loss or partial loss
4 of any such member shall be deducted from any award made
5 for the subsequent injury. For the permanent loss of use or
6 the permanent partial loss of use of any such member or the
7 partial loss of sight of an eye, for which compensation has
8 been paid, then such loss shall be taken into consideration
9 and deducted from any award for the subsequent injury.

10 18. The specific case of loss of both hands, both arms,
11 or both feet, or both legs, or both eyes, or of any two
12 thereof, or the permanent and complete loss of the use
13 thereof, constitutes total and permanent disability, to be
14 compensated according to the compensation fixed by
15 paragraph (f) of this Section. These specific cases of
16 total and permanent disability do not exclude other cases.

17 Any employee who has previously suffered the loss or
18 permanent and complete loss of the use of any of such
19 members, and in a subsequent independent accident loses
20 another or suffers the permanent and complete loss of the
21 use of any one of such members the employer for whom the
22 injured employee is working at the time of the last
23 independent accident is liable to pay compensation only for
24 the loss or permanent and complete loss of the use of the
25 member occasioned by the last independent accident.

26 19. In a case of specific loss and the subsequent death

1 of such injured employee from other causes than such injury
2 leaving a widow, widower, or dependents surviving before
3 payment or payment in full for such injury, then the amount
4 due for such injury is payable to the widow or widower and,
5 if there be no widow or widower, then to such dependents,
6 in the proportion which such dependency bears to total
7 dependency.

8 Beginning July 1, 1980, and every 6 months thereafter, the
9 Commission shall examine the Second Injury Fund and when, after
10 deducting all advances or loans made to such Fund, the amount
11 therein is \$500,000 then the amount required to be paid by
12 employers pursuant to paragraph (f) of Section 7 shall be
13 reduced by one-half. When the Second Injury Fund reaches the
14 sum of \$600,000 then the payments shall cease entirely.
15 However, when the Second Injury Fund has been reduced to
16 \$400,000, payment of one-half of the amounts required by
17 paragraph (f) of Section 7 shall be resumed, in the manner
18 herein provided, and when the Second Injury Fund has been
19 reduced to \$300,000, payment of the full amounts required by
20 paragraph (f) of Section 7 shall be resumed, in the manner
21 herein provided. The Commission shall make the changes in
22 payment effective by general order, and the changes in payment
23 become immediately effective for all cases coming before the
24 Commission thereafter either by settlement agreement or final
25 order, irrespective of the date of the accidental injury.

26 On August 1, 1996 and on February 1 and August 1 of each

1 subsequent year, the Commission shall examine the special fund
2 designated as the "Rate Adjustment Fund" and when, after
3 deducting all advances or loans made to said fund, the amount
4 therein is \$4,000,000, the amount required to be paid by
5 employers pursuant to paragraph (f) of Section 7 shall be
6 reduced by one-half. When the Rate Adjustment Fund reaches the
7 sum of \$5,000,000 the payment therein shall cease entirely.
8 However, when said Rate Adjustment Fund has been reduced to
9 \$3,000,000 the amounts required by paragraph (f) of Section 7
10 shall be resumed in the manner herein provided.

11 (f) In case of complete disability, which renders the
12 employee wholly and permanently incapable of work, or in the
13 specific case of total and permanent disability as provided in
14 subparagraph 18 of paragraph (e) of this Section, compensation
15 shall be payable at the rate provided in subparagraph 2 of
16 paragraph (b) of this Section for life.

17 An employee entitled to benefits under paragraph (f) of
18 this Section shall also be entitled to receive from the Rate
19 Adjustment Fund provided in paragraph (f) of Section 7 of the
20 supplementary benefits provided in paragraph (g) of this
21 Section 8.

22 If any employee who receives an award under this paragraph
23 afterwards returns to work or is able to do so, and earns or is
24 able to earn as much as before the accident, payments under
25 such award shall cease. If such employee returns to work, or is
26 able to do so, and earns or is able to earn part but not as much

1 as before the accident, such award shall be modified so as to
2 conform to an award under paragraph (d) of this Section. If
3 such award is terminated or reduced under the provisions of
4 this paragraph, such employees have the right at any time
5 within 30 months after the date of such termination or
6 reduction to file petition with the Commission for the purpose
7 of determining whether any disability exists as a result of the
8 original accidental injury and the extent thereof.

9 Disability as enumerated in subdivision 18, paragraph (e)
10 of this Section is considered complete disability.

11 If an employee who had previously incurred loss or the
12 permanent and complete loss of use of one member, through the
13 loss or the permanent and complete loss of the use of one hand,
14 one arm, one foot, one leg, or one eye, incurs permanent and
15 complete disability through the loss or the permanent and
16 complete loss of the use of another member, he shall receive,
17 in addition to the compensation payable by the employer and
18 after such payments have ceased, an amount from the Second
19 Injury Fund provided for in paragraph (f) of Section 7, which,
20 together with the compensation payable from the employer in
21 whose employ he was when the last accidental injury was
22 incurred, will equal the amount payable for permanent and
23 complete disability as provided in this paragraph of this
24 Section.

25 The custodian of the Second Injury Fund provided for in
26 paragraph (f) of Section 7 shall be joined with the employer as

1 a party respondent in the application for adjustment of claim.
2 The application for adjustment of claim shall state briefly and
3 in general terms the approximate time and place and manner of
4 the loss of the first member.

5 In its award the Commission or the Arbitrator shall
6 specifically find the amount the injured employee shall be
7 weekly paid, the number of weeks compensation which shall be
8 paid by the employer, the date upon which payments begin out of
9 the Second Injury Fund provided for in paragraph (f) of Section
10 7 of this Act, the length of time the weekly payments continue,
11 the date upon which the pension payments commence and the
12 monthly amount of the payments. The Commission shall 30 days
13 after the date upon which payments out of the Second Injury
14 Fund have begun as provided in the award, and every month
15 thereafter, prepare and submit to the State Comptroller a
16 voucher for payment for all compensation accrued to that date
17 at the rate fixed by the Commission. The State Comptroller
18 shall draw a warrant to the injured employee along with a
19 receipt to be executed by the injured employee and returned to
20 the Commission. The endorsed warrant and receipt is a full and
21 complete acquittance to the Commission for the payment out of
22 the Second Injury Fund. No other appropriation or warrant is
23 necessary for payment out of the Second Injury Fund. The Second
24 Injury Fund is appropriated for the purpose of making payments
25 according to the terms of the awards.

26 As of July 1, 1980 to July 1, 1982, all claims against and

1 obligations of the Second Injury Fund shall become claims
2 against and obligations of the Rate Adjustment Fund to the
3 extent there is insufficient money in the Second Injury Fund to
4 pay such claims and obligations. In that case, all references
5 to "Second Injury Fund" in this Section shall also include the
6 Rate Adjustment Fund.

7 (g) Every award for permanent total disability entered by
8 the Commission on and after July 1, 1965 under which
9 compensation payments shall become due and payable after the
10 effective date of this amendatory Act, and every award for
11 death benefits or permanent total disability entered by the
12 Commission on and after the effective date of this amendatory
13 Act shall be subject to annual adjustments as to the amount of
14 the compensation rate therein provided. Such adjustments shall
15 first be made on July 15, 1977, and all awards made and entered
16 prior to July 1, 1975 and on July 15 of each year thereafter.
17 In all other cases such adjustment shall be made on July 15 of
18 the second year next following the date of the entry of the
19 award and shall further be made on July 15 annually thereafter.
20 If during the intervening period from the date of the entry of
21 the award, or the last periodic adjustment, there shall have
22 been an increase in the State's average weekly wage in covered
23 industries under the Unemployment Insurance Act, the weekly
24 compensation rate shall be proportionately increased by the
25 same percentage as the percentage of increase in the State's
26 average weekly wage in covered industries under the

1 Unemployment Insurance Act. The increase in the compensation
2 rate under this paragraph shall in no event bring the total
3 compensation rate to an amount greater than the prevailing
4 maximum rate at the time that the annual adjustment is made.
5 Such increase shall be paid in the same manner as herein
6 provided for payments under the Second Injury Fund to the
7 injured employee, or his dependents, as the case may be, out of
8 the Rate Adjustment Fund provided in paragraph (f) of Section 7
9 of this Act. Payments shall be made at the same intervals as
10 provided in the award or, at the option of the Commission, may
11 be made in quarterly payment on the 15th day of January, April,
12 July and October of each year. In the event of a decrease in
13 such average weekly wage there shall be no change in the then
14 existing compensation rate. The within paragraph shall not
15 apply to cases where there is disputed liability and in which a
16 compromise lump sum settlement between the employer and the
17 injured employee, or his dependents, as the case may be, has
18 been duly approved by the Illinois Workers' Compensation
19 Commission.

20 Provided, that in cases of awards entered by the Commission
21 for injuries occurring before July 1, 1975, the increases in
22 the compensation rate adjusted under the foregoing provision of
23 this paragraph (g) shall be limited to increases in the State's
24 average weekly wage in covered industries under the
25 Unemployment Insurance Act occurring after July 1, 1975.

26 For every accident occurring on or after July 20, 2005 but

1 before the effective date of this amendatory Act of the 94th
2 General Assembly (Senate Bill 1283 of the 94th General
3 Assembly), the annual adjustments to the compensation rate in
4 awards for death benefits or permanent total disability, as
5 provided in this Act, shall be paid by the employer. The
6 adjustment shall be made by the employer on July 15 of the
7 second year next following the date of the entry of the award
8 and shall further be made on July 15 annually thereafter. If
9 during the intervening period from the date of the entry of the
10 award, or the last periodic adjustment, there shall have been
11 an increase in the State's average weekly wage in covered
12 industries under the Unemployment Insurance Act, the employer
13 shall increase the weekly compensation rate proportionately by
14 the same percentage as the percentage of increase in the
15 State's average weekly wage in covered industries under the
16 Unemployment Insurance Act. The increase in the compensation
17 rate under this paragraph shall in no event bring the total
18 compensation rate to an amount greater than the prevailing
19 maximum rate at the time that the annual adjustment is made. In
20 the event of a decrease in such average weekly wage there shall
21 be no change in the then existing compensation rate. Such
22 increase shall be paid by the employer in the same manner and
23 at the same intervals as the payment of compensation in the
24 award. This paragraph shall not apply to cases where there is
25 disputed liability and in which a compromise lump sum
26 settlement between the employer and the injured employee, or

1 his or her dependents, as the case may be, has been duly
2 approved by the Illinois Workers' Compensation Commission.

3 The annual adjustments for every award of death benefits or
4 permanent total disability involving accidents occurring
5 before July 20, 2005 and accidents occurring on or after the
6 effective date of this amendatory Act of the 94th General
7 Assembly (Senate Bill 1283 of the 94th General Assembly) shall
8 continue to be paid from the Rate Adjustment Fund pursuant to
9 this paragraph and Section 7(f) of this Act.

10 (h) In case death occurs from any cause before the total
11 compensation to which the employee would have been entitled has
12 been paid, then in case the employee leaves any widow, widower,
13 child, parent (or any grandchild, grandparent or other lineal
14 heir or any collateral heir dependent at the time of the
15 accident upon the earnings of the employee to the extent of 50%
16 or more of total dependency) such compensation shall be paid to
17 the beneficiaries of the deceased employee and distributed as
18 provided in paragraph (g) of Section 7.

19 (h-1) In case an injured employee is under legal disability
20 at the time when any right or privilege accrues to him or her
21 under this Act, a guardian may be appointed pursuant to law,
22 and may, on behalf of such person under legal disability, claim
23 and exercise any such right or privilege with the same effect
24 as if the employee himself or herself had claimed or exercised
25 the right or privilege. No limitations of time provided by this
26 Act run so long as the employee who is under legal disability

1 is without a conservator or guardian.

2 (i) In case the injured employee is under 16 years of age
3 at the time of the accident and is illegally employed, the
4 amount of compensation payable under paragraphs (b), (c), (d),
5 (e) and (f) of this Section is increased 50%.

6 However, where an employer has on file an employment
7 certificate issued pursuant to the Child Labor Law or work
8 permit issued pursuant to the Federal Fair Labor Standards Act,
9 as amended, or a birth certificate properly and duly issued,
10 such certificate, permit or birth certificate is conclusive
11 evidence as to the age of the injured minor employee for the
12 purposes of this Section.

13 Nothing herein contained repeals or amends the provisions
14 of the Child Labor Law relating to the employment of minors
15 under the age of 16 years.

16 (j) 1. In the event the injured employee receives benefits,
17 including medical, surgical or hospital benefits under any
18 group plan covering non-occupational disabilities contributed
19 to wholly or partially by the employer, which benefits should
20 not have been payable if any rights of recovery existed under
21 this Act, then such amounts so paid to the employee from any
22 such group plan as shall be consistent with, and limited to,
23 the provisions of paragraph 2 hereof, shall be credited to or
24 against any compensation payment for temporary total
25 incapacity for work or any medical, surgical or hospital
26 benefits made or to be made under this Act. In such event, the

1 period of time for giving notice of accidental injury and
2 filing application for adjustment of claim does not commence to
3 run until the termination of such payments. This paragraph does
4 not apply to payments made under any group plan which would
5 have been payable irrespective of an accidental injury under
6 this Act. Any employer receiving such credit shall keep such
7 employee safe and harmless from any and all claims or
8 liabilities that may be made against him by reason of having
9 received such payments only to the extent of such credit.

10 Any excess benefits paid to or on behalf of a State
11 employee by the State Employees' Retirement System under
12 Article 14 of the Illinois Pension Code on a death claim or
13 disputed disability claim shall be credited against any
14 payments made or to be made by the State of Illinois to or on
15 behalf of such employee under this Act, except for payments for
16 medical expenses which have already been incurred at the time
17 of the award. The State of Illinois shall directly reimburse
18 the State Employees' Retirement System to the extent of such
19 credit.

20 2. Nothing contained in this Act shall be construed to give
21 the employer or the insurance carrier the right to credit for
22 any benefits or payments received by the employee other than
23 compensation payments provided by this Act, and where the
24 employee receives payments other than compensation payments,
25 whether as full or partial salary, group insurance benefits,
26 bonuses, annuities or any other payments, the employer or

1 insurance carrier shall receive credit for each such payment
2 only to the extent of the compensation that would have been
3 payable during the period covered by such payment.

4 3. The extension of time for the filing of an Application
5 for Adjustment of Claim as provided in paragraph 1 above shall
6 not apply to those cases where the time for such filing had
7 expired prior to the date on which payments or benefits
8 enumerated herein have been initiated or resumed. Provided
9 however that this paragraph 3 shall apply only to cases wherein
10 the payments or benefits hereinabove enumerated shall be
11 received after July 1, 1969.

12 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11; revised
13 9-15-11.)

14 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

15 Sec. 19. Any disputed questions of law or fact shall be
16 determined as herein provided.

17 (a) It shall be the duty of the Commission upon
18 notification that the parties have failed to reach an
19 agreement, to designate an Arbitrator.

20 1. Whenever any claimant misconceives his remedy and
21 files an application for adjustment of claim under this Act
22 and it is subsequently discovered, at any time before final
23 disposition of such cause, that the claim for disability or
24 death which was the basis for such application should
25 properly have been made under the Workers' Occupational

1 Diseases Act, then the provisions of Section 19, paragraph
2 (a-1) of the Workers' Occupational Diseases Act having
3 reference to such application shall apply.

4 2. Whenever any claimant misconceives his remedy and
5 files an application for adjustment of claim under the
6 Workers' Occupational Diseases Act and it is subsequently
7 discovered, at any time before final disposition of such
8 cause that the claim for injury or death which was the
9 basis for such application should properly have been made
10 under this Act, then the application so filed under the
11 Workers' Occupational Diseases Act may be amended in form,
12 substance or both to assert claim for such disability or
13 death under this Act and it shall be deemed to have been so
14 filed as amended on the date of the original filing
15 thereof, and such compensation may be awarded as is
16 warranted by the whole evidence pursuant to this Act. When
17 such amendment is submitted, further or additional
18 evidence may be heard by the Arbitrator or Commission when
19 deemed necessary. Nothing in this Section contained shall
20 be construed to be or permit a waiver of any provisions of
21 this Act with reference to notice but notice if given shall
22 be deemed to be a notice under the provisions of this Act
23 if given within the time required herein.

24 (b) The Arbitrator shall make such inquiries and
25 investigations as he or they shall deem necessary and may
26 examine and inspect all books, papers, records, places, or

1 premises relating to the questions in dispute and hear such
2 proper evidence as the parties may submit.

3 The hearings before the Arbitrator shall be held in the
4 vicinity where the injury occurred after 10 days' notice of the
5 time and place of such hearing shall have been given to each of
6 the parties or their attorneys of record.

7 The Arbitrator may find that the disabling condition is
8 temporary and has not yet reached a permanent condition and may
9 order the payment of compensation up to the date of the
10 hearing, which award shall be reviewable and enforceable in the
11 same manner as other awards, and in no instance be a bar to a
12 further hearing and determination of a further amount of
13 temporary total compensation or of compensation for permanent
14 disability, but shall be conclusive as to all other questions
15 except the nature and extent of said disability.

16 The decision of the Arbitrator shall be filed with the
17 Commission which Commission shall immediately send to each
18 party or his attorney a copy of such decision, together with a
19 notification of the time when it was filed. As of the effective
20 date of this amendatory Act of the 94th General Assembly, all
21 decisions of the Arbitrator shall set forth in writing findings
22 of fact and conclusions of law, separately stated, if requested
23 by either party. Unless a petition for review is filed by
24 either party within 30 days after the receipt by such party of
25 the copy of the decision and notification of time when filed,
26 and unless such party petitioning for a review shall within 35

1 days after the receipt by him of the copy of the decision, file
2 with the Commission either an agreed statement of the facts
3 appearing upon the hearing before the Arbitrator, or if such
4 party shall so elect a correct transcript of evidence of the
5 proceedings at such hearings, then the decision shall become
6 the decision of the Commission and in the absence of fraud
7 shall be conclusive. The Petition for Review shall contain a
8 statement of the petitioning party's specific exceptions to the
9 decision of the arbitrator. The jurisdiction of the Commission
10 to review the decision of the arbitrator shall not be limited
11 to the exceptions stated in the Petition for Review. The
12 Commission, or any member thereof, may grant further time not
13 exceeding 30 days, in which to file such agreed statement or
14 transcript of evidence. Such agreed statement of facts or
15 correct transcript of evidence, as the case may be, shall be
16 authenticated by the signatures of the parties or their
17 attorneys, and in the event they do not agree as to the
18 correctness of the transcript of evidence it shall be
19 authenticated by the signature of the Arbitrator designated by
20 the Commission.

21 Whether the employee is working or not, if the employee is
22 not receiving or has not received medical, surgical, or
23 hospital services or other services or compensation as provided
24 in paragraph (a) of Section 8, or compensation as provided in
25 paragraph (b) of Section 8, the employee may at any time
26 petition for an expedited hearing by an Arbitrator on the issue

1 of whether or not he or she is entitled to receive payment of
2 the services or compensation. Provided the employer continues
3 to pay compensation pursuant to paragraph (b) of Section 8, the
4 employer may at any time petition for an expedited hearing on
5 the issue of whether or not the employee is entitled to receive
6 medical, surgical, or hospital services or other services or
7 compensation as provided in paragraph (a) of Section 8, or
8 compensation as provided in paragraph (b) of Section 8. When an
9 employer has petitioned for an expedited hearing, the employer
10 shall continue to pay compensation as provided in paragraph (b)
11 of Section 8 unless the arbitrator renders a decision that the
12 employee is not entitled to the benefits that are the subject
13 of the expedited hearing or unless the employee's treating
14 physician has released the employee to return to work at his or
15 her regular job with the employer or the employee actually
16 returns to work at any other job. If the arbitrator renders a
17 decision that the employee is not entitled to the benefits that
18 are the subject of the expedited hearing, a petition for review
19 filed by the employee shall receive the same priority as if the
20 employee had filed a petition for an expedited hearing by an
21 Arbitrator. Neither party shall be entitled to an expedited
22 hearing when the employee has returned to work and the sole
23 issue in dispute amounts to less than 12 weeks of unpaid
24 compensation pursuant to paragraph (b) of Section 8.

25 Expedited hearings shall have priority over all other
26 petitions and shall be heard by the Arbitrator and Commission

1 with all convenient speed. Any party requesting an expedited
2 hearing shall give notice of a request for an expedited hearing
3 under this paragraph. A copy of the Application for Adjustment
4 of Claim shall be attached to the notice. The Commission shall
5 adopt rules and procedures under which the final decision of
6 the Commission under this paragraph is filed not later than 180
7 days from the date that the Petition for Review is filed with
8 the Commission.

9 Where 2 or more insurance carriers, private self-insureds,
10 or a group workers' compensation pool under Article V 3/4 of
11 the Illinois Insurance Code dispute coverage for the same
12 injury, any such insurance carrier, private self-insured, or
13 group workers' compensation pool may request an expedited
14 hearing pursuant to this paragraph to determine the issue of
15 coverage, provided coverage is the only issue in dispute and
16 all other issues are stipulated and agreed to and further
17 provided that all compensation benefits including medical
18 benefits pursuant to Section 8(a) continue to be paid to or on
19 behalf of petitioner. Any insurance carrier, private
20 self-insured, or group workers' compensation pool that is
21 determined to be liable for coverage for the injury in issue
22 shall reimburse any insurance carrier, private self-insured,
23 or group workers' compensation pool that has paid benefits to
24 or on behalf of petitioner for the injury.

25 (b-1) If the employee is not receiving medical, surgical or
26 hospital services as provided in paragraph (a) of Section 8 or

1 compensation as provided in paragraph (b) of Section 8, the
2 employee, in accordance with Commission Rules, may file a
3 petition for an emergency hearing by an Arbitrator on the issue
4 of whether or not he is entitled to receive payment of such
5 compensation or services as provided therein. Such petition
6 shall have priority over all other petitions and shall be heard
7 by the Arbitrator and Commission with all convenient speed.

8 Such petition shall contain the following information and
9 shall be served on the employer at least 15 days before it is
10 filed:

11 (i) the date and approximate time of accident;

12 (ii) the approximate location of the accident;

13 (iii) a description of the accident;

14 (iv) the nature of the injury incurred by the employee;

15 (v) the identity of the person, if known, to whom the
16 accident was reported and the date on which it was
17 reported;

18 (vi) the name and title of the person, if known,
19 representing the employer with whom the employee conferred
20 in any effort to obtain compensation pursuant to paragraph
21 (b) of Section 8 of this Act or medical, surgical or
22 hospital services pursuant to paragraph (a) of Section 8 of
23 this Act and the date of such conference;

24 (vii) a statement that the employer has refused to pay
25 compensation pursuant to paragraph (b) of Section 8 of this
26 Act or for medical, surgical or hospital services pursuant

1 to paragraph (a) of Section 8 of this Act;

2 (viii) the name and address, if known, of each witness
3 to the accident and of each other person upon whom the
4 employee will rely to support his allegations;

5 (ix) the dates of treatment related to the accident by
6 medical practitioners, and the names and addresses of such
7 practitioners, including the dates of treatment related to
8 the accident at any hospitals and the names and addresses
9 of such hospitals, and a signed authorization permitting
10 the employer to examine all medical records of all
11 practitioners and hospitals named pursuant to this
12 paragraph;

13 (x) a copy of a signed report by a medical
14 practitioner, relating to the employee's current inability
15 to return to work because of the injuries incurred as a
16 result of the accident or such other documents or
17 affidavits which show that the employee is entitled to
18 receive compensation pursuant to paragraph (b) of Section 8
19 of this Act or medical, surgical or hospital services
20 pursuant to paragraph (a) of Section 8 of this Act. Such
21 reports, documents or affidavits shall state, if possible,
22 the history of the accident given by the employee, and
23 describe the injury and medical diagnosis, the medical
24 services for such injury which the employee has received
25 and is receiving, the physical activities which the
26 employee cannot currently perform as a result of any

1 impairment or disability due to such injury, and the
2 prognosis for recovery;

3 (xi) complete copies of any reports, records,
4 documents and affidavits in the possession of the employee
5 on which the employee will rely to support his allegations,
6 provided that the employer shall pay the reasonable cost of
7 reproduction thereof;

8 (xii) a list of any reports, records, documents and
9 affidavits which the employee has demanded by subpoena and
10 on which he intends to rely to support his allegations;

11 (xiii) a certification signed by the employee or his
12 representative that the employer has received the petition
13 with the required information 15 days before filing.

14 Fifteen days after receipt by the employer of the petition
15 with the required information the employee may file said
16 petition and required information and shall serve notice of the
17 filing upon the employer. The employer may file a motion
18 addressed to the sufficiency of the petition. If an objection
19 has been filed to the sufficiency of the petition, the
20 arbitrator shall rule on the objection within 2 working days.
21 If such an objection is filed, the time for filing the final
22 decision of the Commission as provided in this paragraph shall
23 be tolled until the arbitrator has determined that the petition
24 is sufficient.

25 The employer shall, within 15 days after receipt of the
26 notice that such petition is filed, file with the Commission

1 and serve on the employee or his representative a written
2 response to each claim set forth in the petition, including the
3 legal and factual basis for each disputed allegation and the
4 following information: (i) complete copies of any reports,
5 records, documents and affidavits in the possession of the
6 employer on which the employer intends to rely in support of
7 his response, (ii) a list of any reports, records, documents
8 and affidavits which the employer has demanded by subpoena and
9 on which the employer intends to rely in support of his
10 response, (iii) the name and address of each witness on whom
11 the employer will rely to support his response, and (iv) the
12 names and addresses of any medical practitioners selected by
13 the employer pursuant to Section 12 of this Act and the time
14 and place of any examination scheduled to be made pursuant to
15 such Section.

16 Any employer who does not timely file and serve a written
17 response without good cause may not introduce any evidence to
18 dispute any claim of the employee but may cross examine the
19 employee or any witness brought by the employee and otherwise
20 be heard.

21 No document or other evidence not previously identified by
22 either party with the petition or written response, or by any
23 other means before the hearing, may be introduced into evidence
24 without good cause. If, at the hearing, material information is
25 discovered which was not previously disclosed, the Arbitrator
26 may extend the time for closing proof on the motion of a party

1 for a reasonable period of time which may be more than 30 days.
2 No evidence may be introduced pursuant to this paragraph as to
3 permanent disability. No award may be entered for permanent
4 disability pursuant to this paragraph. Either party may
5 introduce into evidence the testimony taken by deposition of
6 any medical practitioner.

7 The Commission shall adopt rules, regulations and
8 procedures whereby the final decision of the Commission is
9 filed not later than 90 days from the date the petition for
10 review is filed but in no event later than 180 days from the
11 date the petition for an emergency hearing is filed with the
12 Illinois Workers' Compensation Commission.

13 All service required pursuant to this paragraph (b-1) must
14 be by personal service or by certified mail and with evidence
15 of receipt. In addition for the purposes of this paragraph, all
16 service on the employer must be at the premises where the
17 accident occurred if the premises are owned or operated by the
18 employer. Otherwise service must be at the employee's principal
19 place of employment by the employer. If service on the employer
20 is not possible at either of the above, then service shall be
21 at the employer's principal place of business. After initial
22 service in each case, service shall be made on the employer's
23 attorney or designated representative.

24 (c) (1) At a reasonable time in advance of and in
25 connection with the hearing under Section 19(e) or 19(h), the
26 Commission may on its own motion order an impartial physical or

1 mental examination of a petitioner whose mental or physical
2 condition is in issue, when in the Commission's discretion it
3 appears that such an examination will materially aid in the
4 just determination of the case. The examination shall be made
5 by a member or members of a panel of physicians chosen for
6 their special qualifications by the Illinois State Medical
7 Society. The Commission shall establish procedures by which a
8 physician shall be selected from such list.

9 (2) Should the Commission at any time during the hearing
10 find that compelling considerations make it advisable to have
11 an examination and report at that time, the commission may in
12 its discretion so order.

13 (3) A copy of the report of examination shall be given to
14 the Commission and to the attorneys for the parties.

15 (4) Either party or the Commission may call the examining
16 physician or physicians to testify. Any physician so called
17 shall be subject to cross-examination.

18 (5) The examination shall be made, and the physician or
19 physicians, if called, shall testify, without cost to the
20 parties. The Commission shall determine the compensation and
21 the pay of the physician or physicians. The compensation for
22 this service shall not exceed the usual and customary amount
23 for such service.

24 (6) The fees and payment thereof of all attorneys and
25 physicians for services authorized by the Commission under this
26 Act shall, upon request of either the employer or the employee

1 or the beneficiary affected, be subject to the review and
2 decision of the Commission.

3 (d) If any employee shall persist in insanitary or
4 injurious practices which tend to either imperil or retard his
5 recovery or shall refuse to submit to such medical, surgical,
6 or hospital treatment as is reasonably essential to promote his
7 recovery, the Commission may, in its discretion, reduce or
8 suspend the compensation of any such injured employee. However,
9 when an employer and employee so agree in writing, the
10 foregoing provision shall not be construed to authorize the
11 reduction or suspension of compensation of an employee who is
12 relying in good faith, on treatment by prayer or spiritual
13 means alone, in accordance with the tenets and practice of a
14 recognized church or religious denomination, by a duly
15 accredited practitioner thereof.

16 (e) This paragraph shall apply to all hearings before the
17 Commission. Such hearings may be held in its office or
18 elsewhere as the Commission may deem advisable. The taking of
19 testimony on such hearings may be had before any member of the
20 Commission. If a petition for review and agreed statement of
21 facts or transcript of evidence is filed, as provided herein,
22 the Commission shall promptly review the decision of the
23 Arbitrator and all questions of law or fact which appear from
24 the statement of facts or transcript of evidence.

25 In all cases in which the hearing before the arbitrator is
26 held after December 18, 1989, no additional evidence shall be

1 introduced by the parties before the Commission on review of
2 the decision of the Arbitrator. In reviewing decisions of an
3 arbitrator the Commission shall award such temporary
4 compensation, permanent compensation and other payments as are
5 due under this Act. The Commission shall file in its office its
6 decision thereon, and shall immediately send to each party or
7 his attorney a copy of such decision and a notification of the
8 time when it was filed. Decisions shall be filed within 60 days
9 after the Statement of Exceptions and Supporting Brief and
10 Response thereto are required to be filed or oral argument
11 whichever is later.

12 In the event either party requests oral argument, such
13 argument shall be had before a panel of 3 members of the
14 Commission (or before all available members pursuant to the
15 determination of 7 members of the Commission that such argument
16 be held before all available members of the Commission)
17 pursuant to the rules and regulations of the Commission. A
18 panel of 3 members, which shall be comprised of not more than
19 one representative citizen of the employing class and not more
20 than one representative citizen of the employee class, shall
21 hear the argument; provided that if all the issues in dispute
22 are solely the nature and extent of the permanent partial
23 disability, if any, a majority of the panel may deny the
24 request for such argument and such argument shall not be held;
25 and provided further that 7 members of the Commission may
26 determine that the argument be held before all available

1 members of the Commission. A decision of the Commission shall
2 be approved by a majority of Commissioners present at such
3 hearing if any; provided, if no such hearing is held, a
4 decision of the Commission shall be approved by a majority of a
5 panel of 3 members of the Commission as described in this
6 Section. The Commission shall give 10 days' notice to the
7 parties or their attorneys of the time and place of such taking
8 of testimony and of such argument.

9 In any case the Commission in its decision may find
10 specially upon any question or questions of law or fact which
11 shall be submitted in writing by either party whether ultimate
12 or otherwise; provided that on issues other than nature and
13 extent of the disability, if any, the Commission in its
14 decision shall find specially upon any question or questions of
15 law or fact, whether ultimate or otherwise, which are submitted
16 in writing by either party; provided further that not more than
17 5 such questions may be submitted by either party. Any party
18 may, within 20 days after receipt of notice of the Commission's
19 decision, or within such further time, not exceeding 30 days,
20 as the Commission may grant, file with the Commission either an
21 agreed statement of the facts appearing upon the hearing, or,
22 if such party shall so elect, a correct transcript of evidence
23 of the additional proceedings presented before the Commission,
24 in which report the party may embody a correct statement of
25 such other proceedings in the case as such party may desire to
26 have reviewed, such statement of facts or transcript of

1 evidence to be authenticated by the signature of the parties or
2 their attorneys, and in the event that they do not agree, then
3 the authentication of such transcript of evidence shall be by
4 the signature of any member of the Commission.

5 If a reporter does not for any reason furnish a transcript
6 of the proceedings before the Arbitrator in any case for use on
7 a hearing for review before the Commission, within the
8 limitations of time as fixed in this Section, the Commission
9 may, in its discretion, order a trial de novo before the
10 Commission in such case upon application of either party. The
11 applications for adjustment of claim and other documents in the
12 nature of pleadings filed by either party, together with the
13 decisions of the Arbitrator and of the Commission and the
14 statement of facts or transcript of evidence hereinbefore
15 provided for in paragraphs (b) and (c) shall be the record of
16 the proceedings of the Commission, and shall be subject to
17 review as hereinafter provided.

18 At the request of either party or on its own motion, the
19 Commission shall set forth in writing the reasons for the
20 decision, including findings of fact and conclusions of law
21 separately stated. The Commission shall by rule adopt a format
22 for written decisions for the Commission and arbitrators. The
23 written decisions shall be concise and shall succinctly state
24 the facts and reasons for the decision. The Commission may
25 adopt in whole or in part, the decision of the arbitrator as
26 the decision of the Commission. When the Commission does so

1 adopt the decision of the arbitrator, it shall do so by order.
2 Whenever the Commission adopts part of the arbitrator's
3 decision, but not all, it shall include in the order the
4 reasons for not adopting all of the arbitrator's decision. When
5 a majority of a panel, after deliberation, has arrived at its
6 decision, the decision shall be filed as provided in this
7 Section without unnecessary delay, and without regard to the
8 fact that a member of the panel has expressed an intention to
9 dissent. Any member of the panel may file a dissent. Any
10 dissent shall be filed no later than 10 days after the decision
11 of the majority has been filed.

12 Decisions rendered by the Commission and dissents, if any,
13 shall be published together by the Commission. The conclusions
14 of law set out in such decisions shall be regarded as
15 precedents by arbitrators for the purpose of achieving a more
16 uniform administration of this Act.

17 (f) The decision of the Commission acting within its
18 powers, according to the provisions of paragraph (e) of this
19 Section shall, in the absence of fraud, be conclusive unless
20 reviewed as in this paragraph hereinafter provided. However,
21 the Arbitrator or the Commission may on his or its own motion,
22 or on the motion of either party, correct any clerical error or
23 errors in computation within 15 days after the date of receipt
24 of any award by such Arbitrator or any decision on review of
25 the Commission and shall have the power to recall the original
26 award on arbitration or decision on review, and issue in lieu

1 thereof such corrected award or decision. Where such correction
2 is made the time for review herein specified shall begin to run
3 from the date of the receipt of the corrected award or
4 decision.

5 (1) Except in cases of claims against the State of
6 Illinois other than those claims under Section 18.1, in
7 which case the decision of the Commission shall not be
8 subject to judicial review, the Circuit Court of the county
9 where any of the parties defendant may be found, or if none
10 of the parties defendant can be found in this State then
11 the Circuit Court of the county where the accident
12 occurred, shall by summons to the Commission have power to
13 review all questions of law and fact presented by such
14 record.

15 A proceeding for review shall be commenced within 20
16 days of the receipt of notice of the decision of the
17 Commission. The summons shall be issued by the clerk of
18 such court upon written request returnable on a designated
19 return day, not less than 10 or more than 60 days from the
20 date of issuance thereof, and the written request shall
21 contain the last known address of other parties in interest
22 and their attorneys of record who are to be served by
23 summons. Service upon any member of the Commission or the
24 Secretary or the Assistant Secretary thereof shall be
25 service upon the Commission, and service upon other parties
26 in interest and their attorneys of record shall be by

1 summons, and such service shall be made upon the Commission
2 and other parties in interest by mailing notices of the
3 commencement of the proceedings and the return day of the
4 summons to the office of the Commission and to the last
5 known place of residence of other parties in interest or
6 their attorney or attorneys of record. The clerk of the
7 court issuing the summons shall on the day of issue mail
8 notice of the commencement of the proceedings which shall
9 be done by mailing a copy of the summons to the office of
10 the Commission, and a copy of the summons to the other
11 parties in interest or their attorney or attorneys of
12 record and the clerk of the court shall make certificate
13 that he has so sent said notices in pursuance of this
14 Section, which shall be evidence of service on the
15 Commission and other parties in interest.

16 The Commission shall not be required to certify the
17 record of their proceedings to the Circuit Court, unless
18 the party commencing the proceedings for review in the
19 Circuit Court as above provided, shall pay to the
20 Commission the sum of 80¢ per page of testimony taken
21 before the Commission, and 35¢ per page of all other
22 matters contained in such record, except as otherwise
23 provided by Section 20 of this Act. Payment for photostatic
24 copies of exhibit shall be extra. It shall be the duty of
25 the Commission upon such payment, or failure to pay as
26 permitted under Section 20 of this Act, to prepare a true

1 and correct typewritten copy of such testimony and a true
2 and correct copy of all other matters contained in such
3 record and certified to by the Secretary or Assistant
4 Secretary thereof.

5 In its decision on review the Commission shall
6 determine in each particular case the amount of the
7 probable cost of the record to be filed as a part of the
8 summons in that case and no request for a summons may be
9 filed and no summons shall issue unless the party seeking
10 to review the decision of the Commission shall exhibit to
11 the clerk of the Circuit Court proof of payment by filing a
12 receipt showing payment or an affidavit of the attorney
13 setting forth that payment has been made of the sums so
14 determined to the Secretary or Assistant Secretary of the
15 Commission, except as otherwise provided by Section 20 of
16 this Act.

17 (2) No such summons shall issue unless the one against
18 whom the Commission shall have rendered an award for the
19 payment of money shall upon the filing of his written
20 request for such summons file with the clerk of the court a
21 bond conditioned that if he shall not successfully
22 prosecute the review, he will pay the award and the costs
23 of the proceedings in the courts. The amount of the bond
24 shall be fixed by any member of the Commission and the
25 surety or sureties of the bond shall be approved by the
26 clerk of the court. The acceptance of the bond by the clerk

1 of the court shall constitute evidence of his approval of
2 the bond.

3 Every county, city, town, township, incorporated
4 village, school district, body politic or municipal
5 corporation against whom the Commission shall have
6 rendered an award for the payment of money shall not be
7 required to file a bond to secure the payment of the award
8 and the costs of the proceedings in the court to authorize
9 the court to issue such summons.

10 The court may confirm or set aside the decision of the
11 Commission. If the decision is set aside and the facts
12 found in the proceedings before the Commission are
13 sufficient, the court may enter such decision as is
14 justified by law, or may remand the cause to the Commission
15 for further proceedings and may state the questions
16 requiring further hearing, and give such other
17 instructions as may be proper. Appeals shall be taken to
18 the Appellate Court in accordance with Supreme Court Rules
19 22(g) and 303. Appeals shall be taken from the Appellate
20 Court to the Supreme Court in accordance with Supreme Court
21 Rule 315.

22 It shall be the duty of the clerk of any court
23 rendering a decision affecting or affirming an award of the
24 Commission to promptly furnish the Commission with a copy
25 of such decision, without charge.

26 The decision of a majority of the members of the panel

1 of the Commission, shall be considered the decision of the
2 Commission.

3 (g) Except in the case of a claim against the State of
4 Illinois, either party may present a certified copy of the
5 award of the Arbitrator, or a certified copy of the decision of
6 the Commission when the same has become final, when no
7 proceedings for review are pending, providing for the payment
8 of compensation according to this Act, to the Circuit Court of
9 the county in which such accident occurred or either of the
10 parties are residents, whereupon the court shall enter a
11 judgment in accordance therewith. In a case where the employer
12 refuses to pay compensation according to such final award or
13 such final decision upon which such judgment is entered the
14 court shall in entering judgment thereon, tax as costs against
15 him the reasonable costs and attorney fees in the arbitration
16 proceedings and in the court entering the judgment for the
17 person in whose favor the judgment is entered, which judgment
18 and costs taxed as therein provided shall, until and unless set
19 aside, have the same effect as though duly entered in an action
20 duly tried and determined by the court, and shall with like
21 effect, be entered and docketed. The Circuit Court shall have
22 power at any time upon application to make any such judgment
23 conform to any modification required by any subsequent decision
24 of the Supreme Court upon appeal, or as the result of any
25 subsequent proceedings for review, as provided in this Act.

26 Judgment shall not be entered until 15 days' notice of the

1 time and place of the application for the entry of judgment
2 shall be served upon the employer by filing such notice with
3 the Commission, which Commission shall, in case it has on file
4 the address of the employer or the name and address of its
5 agent upon whom notices may be served, immediately send a copy
6 of the notice to the employer or such designated agent.

7 (h) An agreement or award under this Act providing for
8 compensation in installments, may at any time within 18 months
9 after such agreement or award be reviewed by the Commission at
10 the request of either the employer or the employee, on the
11 ground that the disability of the employee has subsequently
12 recurred, increased, diminished or ended.

13 However, as to accidents occurring subsequent to July 1,
14 1955, which are covered by any agreement or award under this
15 Act providing for compensation in installments made as a result
16 of such accident, such agreement or award may at any time
17 within 30 months, or 60 months in the case of an award under
18 Section 8(d)1, after such agreement or award be reviewed by the
19 Commission at the request of either the employer or the
20 employee on the ground that the disability of the employee has
21 subsequently recurred, increased, diminished or ended.

22 On such review, compensation payments may be
23 re-established, increased, diminished or ended. The Commission
24 shall give 15 days' notice to the parties of the hearing for
25 review. Any employee, upon any petition for such review being
26 filed by the employer, shall be entitled to one day's notice

1 for each 100 miles necessary to be traveled by him in attending
2 the hearing of the Commission upon the petition, and 3 days in
3 addition thereto. Such employee shall, at the discretion of the
4 Commission, also be entitled to 5 cents per mile necessarily
5 traveled by him within the State of Illinois in attending such
6 hearing, not to exceed a distance of 300 miles, to be taxed by
7 the Commission as costs and deposited with the petition of the
8 employer.

9 When compensation which is payable in accordance with an
10 award or settlement contract approved by the Commission, is
11 ordered paid in a lump sum by the Commission, no review shall
12 be had as in this paragraph mentioned.

13 (i) Each party, upon taking any proceedings or steps
14 whatsoever before any Arbitrator, Commission or court, shall
15 file with the Commission his address, or the name and address
16 of any agent upon whom all notices to be given to such party
17 shall be served, either personally or by registered mail,
18 addressed to such party or agent at the last address so filed
19 with the Commission. In the event such party has not filed his
20 address, or the name and address of an agent as above provided,
21 service of any notice may be had by filing such notice with the
22 Commission.

23 (j) Whenever in any proceeding testimony has been taken or
24 a final decision has been rendered and after the taking of such
25 testimony or after such decision has become final, the injured
26 employee dies, then in any subsequent proceedings brought by

1 the personal representative or beneficiaries of the deceased
2 employee, such testimony in the former proceeding may be
3 introduced with the same force and effect as though the witness
4 having so testified were present in person in such subsequent
5 proceedings and such final decision, if any, shall be taken as
6 final adjudication of any of the issues which are the same in
7 both proceedings.

8 (k) In case where there has been any unreasonable or
9 vexatious delay in the authorization of medical treatment or in
10 the ~~of~~ payment of compensation or an intentional underpayment
11 of compensation, or proceedings have been instituted or carried
12 on by the one liable to pay the compensation, which do not
13 present a real controversy, but are merely frivolous or for
14 delay, then the Commission may award compensation additional to
15 that otherwise payable under this Act equal to 50% of the
16 amount payable at the time of such award. Failure to pay
17 compensation in accordance with the provisions of Section 8,
18 paragraph (b) of this Act, shall be considered unreasonable
19 delay.

20 When determining whether this subsection (k) shall apply,
21 the Commission shall consider whether an Arbitrator has
22 determined that the claim is not compensable or whether the
23 employer has made payments under Section 8(j).

24 (l) If the employee has made written demand for payment of
25 benefits under Section 8(a) or Section 8(b), the employer shall
26 have 14 days after receipt of the demand to set forth in

1 writing the reason for the delay. In the case of demand for
2 payment of medical benefits under Section 8(a), the time for
3 the employer to respond shall not commence until the expiration
4 of the allotted 30 days specified under Section 8.2(d). In case
5 the employer or his or her insurance carrier shall without good
6 and just cause fail, neglect, refuse, or unreasonably delay the
7 payment of benefits under Section 8(a) or Section 8(b), the
8 Arbitrator or the Commission shall allow to the employee
9 additional compensation in the sum of \$30 per day for each day
10 that the benefits under Section 8(a) or Section 8(b) have been
11 so withheld or refused, not to exceed \$10,000. A delay in
12 payment of 14 days or more shall create a rebuttable
13 presumption of unreasonable delay.

14 (m) If the commission finds that an accidental injury was
15 directly and proximately caused by the employer's wilful
16 violation of a health and safety standard under the Health and
17 Safety Act in force at the time of the accident, the arbitrator
18 or the Commission shall allow to the injured employee or his
19 dependents, as the case may be, additional compensation equal
20 to 25% of the amount which otherwise would be payable under the
21 provisions of this Act exclusive of this paragraph. The
22 additional compensation herein provided shall be allowed by an
23 appropriate increase in the applicable weekly compensation
24 rate.

25 (n) After June 30, 1984, decisions of the Illinois Workers'
26 Compensation Commission reviewing an award of an arbitrator of

1 the Commission shall draw interest at a rate equal to the yield
2 on indebtedness issued by the United States Government with a
3 26-week maturity next previously auctioned on the day on which
4 the decision is filed. Said rate of interest shall be set forth
5 in the Arbitrator's Decision. Interest shall be drawn from the
6 date of the arbitrator's award on all accrued compensation due
7 the employee through the day prior to the date of payments.
8 However, when an employee appeals an award of an Arbitrator or
9 the Commission, and the appeal results in no change or a
10 decrease in the award, interest shall not further accrue from
11 the date of such appeal.

12 The employer or his insurance carrier may tender the
13 payments due under the award to stop the further accrual of
14 interest on such award notwithstanding the prosecution by
15 either party of review, certiorari, appeal to the Supreme Court
16 or other steps to reverse, vacate or modify the award.

17 (o) By the 15th day of each month each insurer providing
18 coverage for losses under this Act shall notify each insured
19 employer of any compensable claim incurred during the preceding
20 month and the amounts paid or reserved on the claim including a
21 summary of the claim and a brief statement of the reasons for
22 compensability. A cumulative report of all claims incurred
23 during a calendar year or continued from the previous year
24 shall be furnished to the insured employer by the insurer
25 within 30 days after the end of that calendar year.

26 The insured employer may challenge, in proceeding before

1 the Commission, payments made by the insurer without
2 arbitration and payments made after a case is determined to be
3 noncompensable. If the Commission finds that the case was not
4 compensable, the insurer shall purge its records as to that
5 employer of any loss or expense associated with the claim,
6 reimburse the employer for attorneys' fees arising from the
7 challenge and for any payment required of the employer to the
8 Rate Adjustment Fund or the Second Injury Fund, and may not
9 reflect the loss or expense for rate making purposes. The
10 employee shall not be required to refund the challenged
11 payment. The decision of the Commission may be reviewed in the
12 same manner as in arbitrated cases. No challenge may be
13 initiated under this paragraph more than 3 years after the
14 payment is made. An employer may waive the right of challenge
15 under this paragraph on a case by case basis.

16 (p) After filing an application for adjustment of claim but
17 prior to the hearing on arbitration the parties may voluntarily
18 agree to submit such application for adjustment of claim for
19 decision by an arbitrator under this subsection (p) where such
20 application for adjustment of claim raises only a dispute over
21 temporary total disability, permanent partial disability or
22 medical expenses. Such agreement shall be in writing in such
23 form as provided by the Commission. Applications for adjustment
24 of claim submitted for decision by an arbitrator under this
25 subsection (p) shall proceed according to rule as established
26 by the Commission. The Commission shall promulgate rules

1 including, but not limited to, rules to ensure that the parties
2 are adequately informed of their rights under this subsection
3 (p) and of the voluntary nature of proceedings under this
4 subsection (p). The findings of fact made by an arbitrator
5 acting within his or her powers under this subsection (p) in
6 the absence of fraud shall be conclusive. However, the
7 arbitrator may on his own motion, or the motion of either
8 party, correct any clerical errors or errors in computation
9 within 15 days after the date of receipt of such award of the
10 arbitrator and shall have the power to recall the original
11 award on arbitration, and issue in lieu thereof such corrected
12 award. The decision of the arbitrator under this subsection (p)
13 shall be considered the decision of the Commission and
14 proceedings for review of questions of law arising from the
15 decision may be commenced by either party pursuant to
16 subsection (f) of Section 19. The Advisory Board established
17 under Section 13.1 shall compile a list of certified Commission
18 arbitrators, each of whom shall be approved by at least 7
19 members of the Advisory Board. The chairman shall select 5
20 persons from such list to serve as arbitrators under this
21 subsection (p). By agreement, the parties shall select one
22 arbitrator from among the 5 persons selected by the chairman
23 except that if the parties do not agree on an arbitrator from
24 among the 5 persons, the parties may, by agreement, select an
25 arbitrator of the American Arbitration Association, whose fee
26 shall be paid by the State in accordance with rules promulgated

1 by the Commission. Arbitration under this subsection (p) shall
2 be voluntary.

3 (Source: P.A. 97-18, eff. 6-28-11.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.".